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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LAS VEGAS SANDS CORP.,
a Nevada corporation,

Plaintiff,

v.

XIAOLONG LI, YANG DAWEI, YANG
GUANGLIANG, FA DA, JIANGHONG
WANG, AND THE UNKNOWN
REGISTRANTS OF: www.0077.net,
www.ca0011.com, www.ca0022.com,
www.ca0033.com, www.ca0044.com,
www.ca0055.com, www.ca1066.com,
www.ca0077.com, www.ca0088.com,
www.ca0099.com, www.036.net,
www.4047.com, www.09399.com,
www.j111888.com, www.j222888.com,
www.j333888.com, www.j666888.com,
www.4337.com, www.js722.com,
www.3863jsc.com, www.111111.com,
www.lz0000.com, www.lz0009.com,
www.lz11888.com, and www.929266.com,

Defendants.

Case No.: 2:15-cv-02340

**PLAINTIFF'S MOTION FOR LEAVE
TO SERVE SUBPOENA AND FOR
SERVICE BY OTHER MEANS**

Plaintiff Las Vegas Sands Corp. ("Plaintiff" and/or "Las Vegas Sands") respectfully
moves the Court for entry of an order: (a) permitting Las Vegas Sands to serve subpoenas upon
GoDaddy.com, LLC ("GoDaddy") and its affiliate Domains By Proxy, LLC ("Domains By
Proxy"), for the purpose of identifying the unknown defendant domain name registrants; and

(b) permitting Las Vegas Sands to serve the Defendants (both known and unknown) by email.¹

PRELIMINARY STATEMENT

Las Vegas Sands, a publicly traded Fortune 500 company, is the leading global developer of destination properties that feature premium accommodations, world-class gaming and entertainment, convention and exhibition facilities, celebrity chef restaurants, and many other amenities.

Las Vegas Sands brings this action against the known and unknown registrants of Internet domain names who are using Las Vegas Sands' world famous "Sands" trademark, "Jinsha" characters, and Sunburst design on websites to falsely affiliate themselves with Las Vegas Sands, to lure prospective gamblers to overseas online casinos, and to unlawfully and in bad faith advertise, promote, and provide online casino and gambling services using Las Vegas Sands' federally registered trademarks, common law trademarks, and copyrighted images.

Las Vegas Sands asserts claims for trademark infringement, false designation of origin, and dilution under the Lanham Act, 15 U.S.C. §§ 1114(a), 1125(a)(1)(A), and 1125(c), respectively, for common law trademark infringement and unfair competition, and for copyright infringement under the Copyright Act, 17 U.S.C. § 101 *et seq.* Las Vegas Sands seeks injunctive relief as well as damages, attorneys' fees, and costs.

Domain name registrars are required to maintain identifying data of domain name registrants, including the registrant's name, physical address, and email address. Las Vegas Sands has attempted to identify the unknown Defendants by looking up their registrant contact information in the WHOIS database of domain name registrants.² Las Vegas Sands was successful in obtaining the names and email addresses of named defendants XIAOLONG LI, YANG DAWEI, YANG GUANGLIANG, FA DA, and JIANGHONG WANG from the WHOIS database.

¹ Of the fifty-two (52) domains at issue in this case, the identities of twenty-seven (27) of the domain registrants are known; the remaining registrants are unknown. (*See* Compl. ¶¶ 5-10, 22.)

² *Gordon v. Virtumundo, Inc.*, 575 F.3d 1040, 1064 n.22 (9th Cir. 2009) ("WHOIS is a publically available online database through which users can access information regarding domains, including the registrant's name, address, phone number, and e-mail address").

1 The unknown Defendants, however, have used a privacy protection service provided by
 2 GoDaddy and its affiliate Domains By Proxy to hide their true identities, physical addresses, and
 3 email addresses. Instead of the Defendants' actual names, physical addresses, and email
 4 addresses, GoDaddy and Domains By Proxy have registered the Domains at issue but have
 5 inserted proxy contact information in the WHOIS database. For example, the WHOIS record for
 6 www.0077.net identifies the registrant as "Registration Private," the registrant organization as
 7 "Domains By Proxy, LLC" the registrant street address as 14747 N. Northsight Blvd., Suite 111
 8 PMB 309, Scottsdale, AZ, 85260 (the address of GoDaddy and Domains By Proxy), and the
 9 registrant email address as 0077.NET@domainsbyproxy.com.

10 Accordingly, by and through this motion, Las Vegas Sands respectfully requests the
 11 following relief:

12 A. Entry of an order granting Las Vegas Sands leave to serve subpoenas upon
 13 GoDaddy and Domains By Proxy, the registrar of the Domains, for the purpose of obtaining the
 14 unknown Defendants' actual contact information (*i.e.*, their actual email and physical addresses)
 15 so that they may be served with the Summons, Complaint; and

16 B. Entry of an order permitting Las Vegas Sands to serve the Summons, Complaint,
 17 and all other papers upon the Defendants: (a) for the known Defendants, to the email address
 18 listed in the WHOIS database corresponding to the Domains they have registered; and (b) for the
 19 unknown Defendants, to the email address obtained from Go Daddy and/or Domains By Proxy
 20 in response to the subpoenas, for each of the corresponding Domains.

21 This motion is based on the following memorandum of points and authorities, the
 22 accompanying Declaration of David William Horton in Support of Plaintiff's Motion for
 23 Temporary Restraining Order and Preliminary Injunction (the "Horton Decl."), the
 24 accompanying Declaration of Jonathan W. Fountain (the "Fountain Decl."), the pleadings and
 25 other papers on file in this case, and any oral argument the Court may require or allow.

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STATEMENT OF FACTS

Las Vegas Sands and Its Trademarks

Las Vegas Sands is a world famous Fortune 500 company that is publicly traded on the New York Stock Exchange. Las Vegas Sands is the leading global developer of destination resort properties that feature premium accommodations, world-class gaming and entertainment, convention and exhibition facilities, celebrity chef restaurants, and many other amenities. Las Vegas Sands' properties include The Venetian, The Palazzo, and The Sands Expo and Convention Center in Las Vegas, Nevada; Sands Bethlehem in Bethlehem, Pennsylvania; and Marina Bay Sands in Singapore. Through its 70.2% ownership of Sands China, Ltd., Las Vegas Sands also owns and operates The Venetian Macao, Sands Macao, Four Seasons Hotel Macao, and Sands Cotai Central in Macao. Las Vegas Sands maintains websites at, among others, <venetian.com>, <palazzo.com>, <sandsexpo.com>, <pasands.com>, <marinabaysands.com>, <venetianmacao.com>, <sandsmacao.com>, and <sandscotaicentral.com>, through which it markets its hotel and casino services and, among other things, provides information and accepts hotel room reservations. (Horton Decl. ¶ 2.) The original Sands Hotel in Las Vegas, Nevada, became famous by, among other things, attracting numerous celebrities and serving as the setting for several famous Hollywood films, including the original "Ocean's Eleven" movie. Since 1952, Las Vegas Sands and its predecessors-in-interest have used the SANDS trademark (in both standard character and stylized forms) to provide, among others, casino services (*i.e.*, gambling and casino games). (Horton Decl. ¶ 3.)





Also since 1952, Las Vegas Sands' predecessors-in-interest and, since 2004, Las Vegas Sands, have used the Sunburst design alone or in combination with the SANDS mark in connection with casino services. The Sunburst design appears as follows:



(Horton Decl. ¶ 4.) As a result of its longstanding and prominent use of the SANDS trademark and Sunburst design in commerce, Las Vegas Sands has developed common law trademark

rights in the SANDS trademark and Sunburst design for use in connection with, among others, casino services. (Horton Decl. ¶ 5.)

In addition to its common law rights, Las Vegas Sands owns trademark registrations for the SANDS trademark worldwide. In the United States, Las Vegas Sands' federal trademark registrations include, among others, the following:

Mark	Fed. Reg. No.	First Use	Goods and Services
	1,209,102	1/1/1952	"Entertainment services-namely, providing stage show, gambling and casino services . . ."
	3,734,615	12/31/1952	"[P]roviding casino and gaming services; providing casino and gambling facilities . . ."
	3,838,397	11/30/1996	"Casino services; gambling services; gaming services; Entertainment services in the nature of boxing contests and art exhibitions; arranging of seminars and conferences; educational demonstrations; rental of audio-visual equipment; rental of portable stages; rental of audio-visual equipment; preparation of special effects for trade show booths and exhibitions; entertainment, namely, lighting production."
	3,850,500	11/30/1996	"Casino services; gambling services; gaming services; entertainment services in the nature of boxing contests and art exhibition; arranging of seminars and conferences; educational demonstrations; rental of portable stages; rental of audio-visual equipment; preparation of special effects for trade show booths and exhibitions; entertainment, namely, lighting production."

(Horton Decl. ¶ 6 & Ex. A.)

Las Vegas Sands Corp. also owns a Nevada state trademark registration for SANDS HOTEL & CASINO (Reg. No. TN00250422). (Las Vegas Sands' federal trademark registrations and common law rights in the SANDS mark shall be collectively referred to as the "SANDS Mark"). (Horton Decl. ¶ 7.) Based on its federal and state trademark registrations and its longstanding and exclusive use of the SANDS Mark, Las Vegas Sands owns the exclusive right to use the SANDS Mark in commerce. (Horton Decl. ¶ 8.) The SANDS Mark has become

1 distinctive and famous in the United States for, among other services, casino and gaming
2 services. (Horton Decl. ¶ 9.)

3 In addition to the foregoing trademark rights, Las Vegas Sands is the owner of all
4 copyrights in and to the Sunburst design. Las Vegas Sands' predecessors first published the
5 Sunburst design on December 15, 1952. Las Vegas Sands registered its copyrights in the
6 Sunburst design with the U.S. Copyright Office effective June 21, 2010, and was granted U.S.
7 Copyright Registration Certificate No. VA 1-724-059. (Horton Decl. ¶ 10 & Ex. B.) Further,
8 since 2004, Las Vegas Sands has used two Chinese language characters known as "Jinsha" in
9 connection with its gaming, hotel, entertainment, and other services provided at its Sands Macao
10 property, to act as the Chinese language equivalent of the SANDS Mark. Roughly translated,
11 Jinsha means "golden sands" in Chinese. As a result of its use of the Jinsha characters in
12 commerce in connection with its goods and services, Las Vegas Sands owns common law rights
13 in the Jinsha characters, which appear below:



15
16
17 (Horton Decl. ¶ 11.)

18 **The Defendants' Infringing Conduct**

19 The Defendants have set up a network of Internet websites that are accessible to U.S.
20 citizens that are designed to drive Internet users to one or more online casinos. (Horton Decl.
21 ¶ 12.)

22 The infringing websites appear at the following Internet locations: www.0077.net,
23 www.ca0011.com, www.ca0022.com, www.ca0033.com, www.ca0044.com, www.ca0055.com,
24 www.ca1066.com, www.ca0077.com, www.ca0088.com, www.ca0099.com, www.036.net,
25 www.4047.com, www.09399.com, www.j111888.com, www.j222888.com, www.j333888.com,
26 www.j666888.com, www.4337.com, www.20288.com, www.js567.com, www.js8666.com,
27 www.js686.com, www.js3333.com, www.js722.com, www.3863.com, www.3863jsc.com,
28 www.jsc0000.com, www.jsc00000.com, www.jsc1111.com, www.jsc11111.com,

1 www.jsc2222.com, www.jsc22222.com, www.jsc3333.com, www.jsc4444.com,
 2 www.jsc44444.com, www.jsc5555.com, www.jsc55555.com, www.jsc6666.com,
 3 www.jsc88888.com, www.jsc9999.com, www.jsc99999.com, www.111111.com,
 4 www.lz0000.com, www.lz0009.com, www.lz11888.com, www.2088666.com,
 5 www.2099666.com, www.8566999.com, www.8577999.com, www.8766999.com,
 6 www.9500888.com, and www.929266.com (collectively, the “Domains”). GoDaddy is the
 7 registrar of each Domain. (Horton Decl. ¶ 13.)

8 Five of the Domains (*i.e.*, www.0077.net, www.4047.com, www.09399.com,
 9 www.3863.com, and www.3863jsc.com) are “directory” sites that provide links to several other
 10 online casino websites. All but two of the Domains (www.4047.com and www.09399.com)
 11 display unauthorized and infringing reproductions of the SANDS Mark, the Sunburst design,
 12 and/or the Jinsha characters. (Horton Decl. ¶ 14.) Taking the Domains in order, the website
 13 located at www.077.net is a “directory” site that contains links to casino webpages. An image of
 14 www.077.net is set forth below:



(Horton Decl. ¶ 15.) This “directory” page displays the SANDS Mark, Jinsha characters, and Sunburst design and links to the following domains: www.ca0011.com, www.ca0022.com, www.ca0033.com, www.ca0044.com, www.ca0055.com, www.ca1066.com, www.ca0077.com, www.ca0088.com, www.ca0099.com, www.036.net. Each of these domains operate an online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands. All display the following online casino:



(Horton Decl. ¶ 16.) As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the lower, right-hand, corner of the page. (Horton Decl. ¶ 17.)

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The webpages located at www.4047.com and www.09399.com are Chinese-language directory pages that contain Chinese-language links to online casinos:

金沙国际上网导航 www.4047.com 相信品牌的力量!

金沙国际贵宾登入

金沙国际一站	金沙国际二站	金沙国际三站	金沙国际四站	金沙国际五站	金沙国际六站
金沙国际七站	金沙国际八站	金沙国际九站	金沙国际十站	试玩有奖	在线客服

www.4047.com

金沙国际上网导航 www.09399.com 相信品牌的力量!

金沙国际贵宾登入

金沙国际一站	金沙国际二站	金沙国际三站	金沙国际四站	金沙国际五站	金沙国际六站
金沙国际七站	金沙国际八站	金沙国际九站	金沙国际十站	试玩有奖	在线客服

www.9039.com

(Horton Decl. ¶ 18.)

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These directory pages link to the following domains: www.j111888.com, www.j222888.com, www.j333888.com, and www.j666888.com. Each of these domains operates an online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands. All display the following online casino:



(Horton Decl. ¶ 19.)

As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the upper, left-hand, corner of the page and again in the middle of the page. (Horton Decl. ¶ 20.)

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The website located at www.4337.com displays a similar online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands:



(Horton Decl. ¶ 21.)

As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the upper, left-hand, corner of the page and again in the middle of the page. (Horton Decl. ¶ 22.)

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The website located at www.20288.com displays an online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands:



(Horton Decl. ¶ 23.)

As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the upper, center, portion of the page and again in the center-right portion of the page. (Horton Decl. ¶ 24.)

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The websites located at: www.js567.com, www.js8666.com, www.js686.com, and www.js3333.com display an online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands:



(Horton Decl. ¶ 25.)

As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the upper, left-hand corner of the page, on the vertical hotel tower, and again in the middle of the page. (Horton Decl. ¶ 26.)

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The website located at: www.js722.com displays a similar online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands:



(Horton Decl. ¶ 27.)

As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the upper, left-hand corner of the page, on the vertical hotel tower, and in the middle of the page. (Horton Decl. ¶ 28.)

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The websites located at www.3863.com and www.3863jsc.com are each directory pages that appear as follows:



网址1: 访问速度50ms	=>	http://www.jsc2222.com	=>	点击进入
网址2: 访问速度50ms	=>	http://www.jsc1111.com	=>	点击进入
网址3: 访问速度50ms	=>	http://www.jsc3333.com	=>	点击进入
网址4: 访问速度50ms	=>	http://www.jsc5555.com	=>	点击进入
网址5: 访问速度50ms	=>	http://www.jsc4444.com	=>	点击进入
<input type="button" value="再次检测刷新"/>				

温馨提示:ms数值越小,越靠前的网址,打开速度就越快
如果我们的检测中心对您有帮助,请按 Ctrl+D 收藏

(www.3863.com)



网址1: 访问速度80ms	=>	http://www.jsc6666.com	=>	点击进入
网址2: 访问速度80ms	=>	http://www.jsc4444.com	=>	点击进入
网址3: 访问速度80ms	=>	http://www.jsc0000.com	=>	点击进入
网址4: 访问速度80ms	=>	http://www.jsc9999.com	=>	点击进入
网址5: 访问速度80ms	=>	http://www.jsc2222.com	=>	点击进入
<input type="button" value="再次检测刷新"/>				

温馨提示:ms数值越小,越靠前的网址,打开速度就越快
如果我们的检测中心对您有帮助,请按 Ctrl+D 收藏
请记住官方网址发布邮箱: JINSHACHENG@GMAIL.COM

您的IP: 如果检测后还不能登录请按以下操作方式

操作步骤: 打开IE浏览器: 选择: 工具->Internet选项->在选择 (删除历史浏览记录)->删除->重启IE
如果您是出现视频卡,请在您的游戏页面右下角点击“摄像头”的小图标,选择一个新线路使用看看!



(www.3863jsc.com)

(Horton Decl. ¶ 29.)

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As the above screenshots clearly demonstrate, to mislead customers, the webpages prominently feature the SANDS Mark, Jinsha characters, and Sunburst design. These sites link to the following domains: www.jsc0000.com, www.jsc00000.com, www.jsc1111.com, www.jsc11111.com, www.jsc2222.com, www.jsc22222.com, www.jsc3333.com, www.jsc4444.com, www.jsc44444.com, www.jsc5555.com, www.jsc55555.com, www.jsc6666.com, www.jsc88888.com, www.jsc9999.com, and www.jsc99999.com. Each of these domains operates an online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands. All display the following online casino:



(Horton Decl. ¶ 30.) As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the upper, left-hand corner of the page. (Horton Decl. ¶ 31.)

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The websites located at: www.111111.com, www.lz0000.com, www.lz0009.com, www.lz11888.com, www.2088666.com, www.2099666.com, www.8566999.com, www.8577999.com, www.8766999.com, and www.9500888.com display an online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands:



(Horton Decl. ¶ 32.)

As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark, Jinsha characters, and Sunburst design in the middle of the page. (Horton Decl. ¶ 33.)

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The website located at www.929266.com display an online casino purporting to be associated with, affiliated with, approved by, or sponsored by Las Vegas Sands:



(Horton Decl. ¶ 34.)

As the above screenshot clearly demonstrates, to mislead customers, the webpage prominently features the SANDS Mark and the Sunburst design in the upper, left-hand, corner of the page. (Horton Decl. ¶ 35.)

The Domains offer specific casino games such as card games, roulette, or dice games, the same games offered by Las Vegas Sands at The Venetian, The Palazzo, Sands Bethlehem, Marina Bay Sands, The Venetian Macao, Sands Macao, Four Seasons Hotel Macao, and Sands Cotai Central in Macao. (Horton Decl. ¶ 36.)

The Domains permit gamblers to register, create individual financial accounts, and gamble online. (Horton Decl. ¶ 37.)

Las Vegas Sands has not consented to, approved of, or authorized Defendants' use of the

1 SANDS Mark, Jinsha characters, or Sunburst design in connection with the Domains. (Horton
2 Decl. ¶ 38.)

3 **Las Vegas Sands Has Suffered and Will Continue to Suffer Irreparable Harm**

4 As set forth above, the Defendants are operating Internet casinos that are accessible to
5 consumers located in the United States. (Horton Decl. ¶ 39.) The Defendants are doing so using
6 identical versions of the SANDS Mark used by Las Vegas Sands. (*Id.*) In addition, both Las
7 Vegas Sands and the Defendants are providing the same services under the SANDS Mark. (*Id.*)
8 Las Vegas Sands and its predecessors have been providing gaming services under the SANDS
9 Mark since 1952. (*Id.*) The Defendants' online casinos provide gaming services and, in some
10 cases, purport to allow users to participate in live casino games being played at brick-and-mortar
11 casinos by proxy. (*Id.*)

12 Because of the likelihood that confused consumers will mistakenly attribute to Las Vegas
13 Sands defects or negative impressions they have of Defendants' gaming services, Las Vegas
14 Sands' excellent reputation has been harmed and continues to be threatened. (Horton Decl. ¶ 40.)
15 Consumer confusion has occurred, is continuing to occur, and is inevitable, resulting in a loss of
16 control over Las Vegas Sands' reputation and goodwill. (*Id.*)

17 Here, the gambling public is aware of the Defendants' and similar online casinos, have
18 had negative experiences with them, and have associated those negative experiences with Las
19 Vegas Sands. (Horton Decl. ¶ 41.) For example, as cited in an earlier case filed by Las Vegas
20 Sands against similar online casinos, on or about January 10, 2014, Las Vegas Sands received an
21 email from a person who claims to have been cheated by an online casino operated at
22 www.358.com, a Chinese Internet casino that also used the SANDS Mark. (*Id.*) The email
23 states:

24 I am playing the game at sands (www.358.com). (www.358.com) is cheating me.
25 They do not pay money to me from 2014-1-8. They are cheats. I am very angry.
My account name is myray. Please help me. I am in Shanghai, China.

26 (*See* No. 2:14-cv-00424-JCM-NJK, *Las Vegas Sands Corp. v. First Cagayan Leisure & Resort*
27 *Corp. et al.*, Doc. 4, Decl. of Dave Horton in Supp. of Pl.'s *Ex Parte* Mot. for TRO, Alternative
28 Service, and Prelim. Inj., dated March 19, 2014 ¶ 24.) (Emphasis added.) (Horton Decl. ¶ 41.)

1 Upon information and belief, there are additional consumers who have been deceived and
2 confused by the Defendants' use of the SANDS Mark on their online casinos but who have not
3 reported the Defendants' fraudulent conduct to Las Vegas Sands. (Horton Decl. ¶ 42.) Based
4 upon their negative experiences, persons who associate Las Vegas Sands with the Defendants'
5 fraudulent activities due to the Defendants' use of the SANDS Mark have a negative opinion of
6 Las Vegas Sands, and are extremely unlikely to ever become customers or repeat consumers of
7 Las Vegas Sands' gaming services, and are likely to tell others about their negative experiences.
8 (*Id.*)

9 In addition, Las Vegas Sands' has achieved an excellent reputation for providing gaming
10 services under the SANDS Mark, in-part, because Las Vegas Sands' casinos are regulated and
11 licensed in their respective jurisdictions, and adhere to the federal, state, and local statutes, rules,
12 regulations, and ordinances that govern the provision of gaming services in their respective
13 jurisdictions. (Horton Decl. ¶ 43.) Many of these laws, rules, regulations, and ordinances are
14 designed to, among other things, inspire consumer confidence in gaming, protect the consuming
15 public from fraud and other unscrupulous gaming practices, provide a means of settling
16 gambling disputes, and protect vulnerable persons. (*Id.*) For example, in Nevada, Las Vegas
17 Sands may not provide gaming services to persons under 21 years of age. *See Nev. Rev. Stat.*
18 *§ 463.350.* (Horton Decl. ¶ 43.) Las Vegas Sands' lawful gaming activities are also subject to
19 close scrutiny and oversight by State gaming regulators. (*Id.*) In contrast, the Defendants'
20 online casinos are not regulated by any legitimate governing body, do not operate according to
21 any recognized standards, and appear to have no quality control safeguards, consumer protection
22 safeguards, or legitimate means of resolving gaming disputes. (*Id.*) Thus, there are no
23 safeguards preventing at-risk persons, such as persons under the age of 21, from being defrauded
24 or otherwise victimized by the Defendants' casinos. (*Id.*) Upon information and belief, in
25 addition to engaging in fraudulent gaming practices, the Defendants are providing gaming
26 services, without restriction, to any person who utilizes Defendants' services. (*Id.*) To the extent
27 the Defendants have engaged in fraudulent gaming practices and are providing gaming services
28 to such persons, Las Vegas Sands' reputation has been damaged by the Defendants' use of the

1 SANDS Mark. (*Id.*)

2 Upon information and belief, Las Vegas Sands is also losing business to the Defendants’
 3 online casinos. (Horton Decl. ¶ 44.) Persons who would otherwise travel to the United States to
 4 gamble at Las Vegas Sands’ casinos in Las Vegas, Nevada, are instead gambling at the
 5 Defendants’ online casinos. (*Id.*) The true scope and extent to which the Defendants’ activities
 6 have resulted in lost revenue and will continue to do so is not known, cannot be measured, and
 7 will continue in the absence of a preliminary injunction. (*Id.*)

8 In addition, it is unlikely that Las Vegas Sands will be able to recover on a money
 9 judgment entered against the Defendants. (Horton Decl. ¶ 45.) The defendants are known to use
 10 false identities and are located principally in mainland China. (*Id.*)

11 Moreover, and most importantly, Defendants are creating the perception that Las Vegas
 12 Sands has approved of, authorized, affiliated itself with, or sponsored Defendants’ online
 13 gambling services when in fact it has not. (Horton Decl. ¶ 46.) Las Vegas Sands publicly
 14 opposes Internet gambling and has formed the Coalition to Stop Internet Gambling, an advocacy
 15 group dedicated to preventing the proliferation of Internet gambling. (*Id.*) Las Vegas Sands and
 16 the Coalition to Stop Internet Gambling are opposed to the proliferation of online gambling for,
 17 among other reasons, the fact that insufficient safeguards exist to protect, children, the elderly,
 18 the mentally handicapped, and others from being defrauded by unscrupulous and unregulated
 19 Internet casinos, like the very ones operated by the Defendants in this case. (*Id.*) The
 20 Defendants’ use of an identical version of the SANDS Mark on the homepages of their online
 21 casinos, even though unauthorized by Las Vegas Sands, affects Las Vegas Sands’ credibility and
 22 threatens to interfere with Las Vegas Sands’ and the Coalition to Stop Internet Gambling’s
 23 efforts to stop the proliferation of Internet gambling. (*Id.*) This harm cannot be quantified or
 24 adequately redressed by an award of money damages, and therefore is irreparable. (*Id.*)
 25 The injuries Las Vegas Sands has suffered, namely, injury to its reputation, loss of sales revenue,
 26 and the interference with its efforts to stop the proliferation of Internet gambling are injuries that
 27 cannot be measured or compensated for by an award of money damages, and, therefore, are
 28 irreparable and will continue in the absence of a preliminary injunction. (Horton Decl. ¶ 47.)

LEGAL STANDARDS

A. Expedited Discovery

Generally, a party may not initiate discovery before the parties have met and conferred pursuant to Federal Rule of Civil Procedure 26(f). However, a court may authorize earlier discovery “for the convenience of parties and witnesses and in the interests of justice.” Fed. R. Civ. P. 26(d). The requesting party must demonstrate good cause for earlier discovery. *See, e.g., Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D. Cal. 2002).

B. Alternative Service

Rule 4 of the Federal Rules of Civil Procedure governs service upon an individual located in a foreign country. Rule 4(f) provides as follows:

Unless federal law provides otherwise, an individual-other than a minor, an incompetent person, or a person whose waiver has been filed-may be served at a place not within any judicial district of the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the complaint to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by **other means** not prohibited by international agreement, as the court orders.

Fed. R. Civ. P. 4(f). (Emphasis added.)

Pursuant to Rule 4(f)(3), the Court may authorize **other means** of service. *Rio*

1 *Properties, Inc. v. Rio Int'l Interlink*, 284 F.3d 1007 (9th Cir. 2002) (affirming the propriety of
 2 allowing service of process by regular mail and e-mail under Fed. R. Civ. P. 4(f)(3)). The **other**
 3 **means** referenced in Rule 4(f)(3) must comport with constitutional notions of due process;
 4 namely, they must be “reasonably calculated, under all the circumstances, to apprise interested
 5 parties of the pendency of the action and afford them an opportunity to present their objections.”
 6 *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

7 Rule 4(f)(3)’s **other means** provision is an independent basis for service of process and is
 8 neither “extraordinary relief” nor a “last resort” to be used only when parties are unable to
 9 effectuate service under subsections (f)(1) or (f)(2). *See Rio Properties, Inc.*, 284 F.3d at 1015-
 10 16 (a party “need not have attempted every permissible means of service of process before
 11 petitioning the court for alternative relief”). “By all indications, court-directed service under Rule
 12 4(f)(3) is as favored as service available under Rule 4(f)(1) or Rule 4(f)(2).” *Id.*, at 1015 (citing
 13 *Forum Fin. Group, LLC v. Harvard College*, 199 F.R.D. 22, 23-24 (D. Me. 2001) (permitting
 14 service of process upon a defendant located in Russia by sending the summons and complaint by
 15 certified mail to the defendant’s attorneys at the New York law firm of Skadden, Arps, Slate,
 16 Meagher & Flom LLP)).

17 “[S]ervice under Rule 4(f)(3) must be (1) directed by the court; and (2) not prohibited by
 18 international agreement. No other limitations are evident from the text. In fact, as long as court-
 19 directed and not prohibited by an international agreement, service of process ordered under Rule
 20 4(f)(3) may be accomplished in contravention of the laws of the foreign country.” *Rio*
 21 *Properties, Inc.*, 284 F.3d at 1014 (citation omitted).

22 ARGUMENT

23 **I. THE COURT SHOULD ENTER AN ORDER PERMITTING LAS VEGAS SANDS** 24 **TO SERVE SUBPOENAS TO IDENTIFY THE DEFENDANTS.**

25 Good cause exists to permit Las Vegas Sands to serve GoDaddy and Domains By Proxy
 26 with subpoenas to determine the Defendants’ identities and contact information so that Las
 27 Vegas Sands may serve the Defendants with the Summons and Complaint. In *Gillespie v.*
 28 *Civiletti*, 629 F.2d 637, 642–43 (9th Cir. 1980), the Ninth Circuit stated that “situations arise . . .

1 where the identity of alleged defendants will not be known prior to the filing of a complaint. In
2 such circumstances, the plaintiff should be given an opportunity through discovery to identify the
3 unknown defendants, unless it is clear that discovery would not uncover the identities, or that the
4 complaint would be dismissed on other grounds.”

5 That is precisely the situation here. The unknown Defendants are believed to reside in
6 China. (Fountain Decl. ¶ 3.) However, Las Vegas Sands and its counsel do not possess the
7 unknown Defendants’ actual names, physical addresses, or their email addresses because the
8 unknown Defendants used a privacy protection service provided by GoDaddy and Domains By
9 Proxy when they registered the Domains. (*Id.* ¶ 5.) They presumably did so to hide their true
10 identities, physical addresses, and email addresses from the public. (*Id.*) Instead of the
11 Defendants’ actual names, physical addresses, and email addresses, GoDaddy and Domains By
12 Proxy registered the Domains but inserted proxy identifying and contact information in the
13 WHOIS database to conceal the Defendants’ true identities and contact information and thereby
14 prevent it from being included in the publicly available WHOIS database. (*Id.*) For example,
15 the WHOIS record for www.0077.net identifies the registrant as “Registration Private,” the
16 registrant organization as “Domains By Proxy, LLC” the registrant street address as 14747 N.
17 Northsight Blvd., Suite 111 PMB 309, Scottsdale, AZ, 85260 (the address of GoDaddy and
18 Domains By Proxy), and the registrant email address as 0077.NET@domainsbyproxy.com. (*See*
19 *id.* ¶ 6 & Ex. A.) Because the unknown Defendants’ identities and contact information is not
20 listed in the WHOIS database, Las Vegas Sands and its counsel have been unable to identify the
21 unknown Defendants or serve the unknown Defendants with the Summons and Complaint. (*Id.*
22 ¶ 7.)

23 Privacy protection services like those offered by GoDaddy and Domains By Proxy
24 typically forward emails directed to the *proxy* email address found in the WHOIS database to the
25 domain name registrant. (*Id.* ¶ 8.) However, if Las Vegas Sands used the proxy email addresses
26 to serve the Summons and Complaint, it would have no way of knowing whether the unknown
27 Defendants received the documents and would have no way of identifying the unknown
28 Defendants unless the unknown Defendants acknowledged receipt of the documents and

1 identified themselves to Las Vegas Sands. (*Id.*) This is something the unknown Defendants are
 2 unlikely to do given that they chose to conceal their identities and contact information in the first
 3 place. (*Id.*) Absent the issuance of subpoenas to GoDaddy and Domains By Proxy, Las Vegas
 4 Sands and its counsel will have no other reliable means of identifying the unknown Defendants
 5 or obtaining their actual contact information. (*Id.* ¶ 9.)

6 Accordingly, good cause exists, and the Court should permit Las Vegas Sands to serve
 7 subpoenas upon GoDaddy and Domains By Proxy in order to identify the unknown Defendants
 8 and obtain their contact information.

9
 10 **II. THE COURT SHOULD ENTER AN ORDER PERMITTING LAS VEGAS SANDS
 TO SERVE THE DEFENDANTS BY EMAIL.**

11 Service of a summons and complaint by e-mail is an effective method of service. *See*
 12 *Rio Properties, Inc.*, 284 F.3d at 1018. Indeed, courts have relied on Rule 4(f)(3) (and its
 13 predecessor, Rule 4(i)(1)(E)) in authorizing alternative methods of service including, *inter alia*,
 14 service by fax, e-mail, ordinary mail and publication. *Id.* at 1016; *Absolute Swine Insemination*
 15 *Co., (H.K.) Ltd. v. Absolute Swine Insemination Co., LLC*, No. 2:12-cv-00606-KJD-PAL, 2012
 16 WL 3536788, at *3 (D. Nev. Aug. 14, 2012) (ordering service by international mail to
 17 defendant's residence in the Philippines); *accord Haffner Int'l Mktg. Group, Inc. v. Sahin*, No.
 18 2:13-cv-0459-JCM-VCF, 2013 WL 5954379, at *2 (D. Nev. Nov. 5, 2013) (holding that service
 19 on a foreign defendant was proper because service through the Hague Convention on the Service
 20 of Judicial and Extrajudicial Documents Abroad was "expensive and protracted" and would
 21 result in undue delay).

22 All of the Defendants were *required* to provide their names, physical addresses and email
 23 addresses to GoDaddy – the domain name registrar – when they registered the Domains.
 24 GoDaddy's domain name registration agreement provides as follows:

25 You agree that for each domain name registered by you, the following contact
 26 data is required: postal address, email address, telephone number, and if available,
 27 a facsimile number for the Registered Name Holder and, if different from the
 Registered Name Holder, the same contact information for, a technical contact, an
 administrative contact and a billing contact.

28 *See* GoDaddy Domain Name Registration Agreement ¶ 4, available at:

1 https://www.godaddy.com/agreements/showdoc.aspx?pageid=REG_SA (last accessed
2 August 19, 2015).

3 In addition, all of the Defendants agreed to receive notices concerning the Domains by
4 email. The GoDaddy domain name registration agreement further states that: “You agree that
5 your failure to comply completely with the terms and conditions of this Agreement and any
6 GoDaddy rule or policy may be considered by GoDaddy to be a material breach of this
7 Agreement and GoDaddy may provide you with notice of such breach either in writing or
8 electronically (i.e. email).” *Id.* ¶ 7. Based upon the terms of the domain name registration
9 agreement, GoDaddy is in possession of the Defendants’ names, physical addresses, and email
10 addresses, and could provide that information to Las Vegas Sands if subpoenaed. Once
11 GoDaddy provides the Defendants’ identities and contact information, the Defendants may be
12 served through the email address they provided to GoDaddy when they registered the Domains.

13 Also, due process concerns are satisfied because the Defendants provided their email
14 address to GoDaddy and agreed to receive notices concerning the Domains by email.
15 Confirmation of the email’s delivery can be obtained by requesting a delivery receipt when the
16 email is sent. If the email is undeliverable, the email will be returned with a notice that the email
17 could not be delivered. Thus, service by email is reasonably calculated to apprise the Defendants
18 of the pendency of this case and is reasonably calculated to afford the Defendants with an
19 opportunity to appear and present their objections to this action.

20 Moreover, service by email is the only reasonable alternative in this type of case.
21 Although China is a signatory to the Hague Convention on Service Abroad of Judicial and
22 Extrajudicial Documents, *see* http://www.hcch.net/index_en.php?act=conventions.status&cid=17
23 (identifying member nations) (last accessed on August 19, 2015), service through the Hague
24 Convention is a process that is expensive, uncertain, and time consuming, inasmuch as service
25 could take several months. *See, e.g.,* [http://travel.state.gov/content/travel/english/legal-](http://travel.state.gov/content/travel/english/legal-considerations/judicial/service-of-process.html)
26 [considerations/judicial/service-of-process.html](http://travel.state.gov/content/travel/english/legal-considerations/judicial/service-of-process.html) (listing methods of international service). In
27 contrast, service by email is immediate, receipt can be confirmed, and the email addresses the
28 Defendants provided to GoDaddy are highly reliable because they were required by GoDaddy as

1 the preferred and agreed upon means of communicating with the Defendants with respect to the
2 Domains.

3 Furthermore, Las Vegas Sands is unaware of any international agreement that would
4 prohibit service of the Summons and Complaint by email.

5 **CONCLUSION**

6 Based on the foregoing points and authorities, Las Vegas Sands respectfully requests the
7 following relief:

8 A. Entry of an order granting Las Vegas Sands leave to serve subpoenas upon
9 GoDaddy and Domains By Proxy for the purpose of obtaining the unknown Defendants' actual
10 contact information (*i.e.*, their actual email and physical addresses) so that they may be served
11 with the Summons, Complaint; and

12 B. Entry of an order permitting Las Vegas Sands to serve the Summons, Complaint,
13 and all other papers upon the Defendants: (a) for the known Defendants, to the email address
14 listed in the WHOIS database corresponding to the Domains they have registered; and (b) for the
15 unknown Defendants, to the email address obtained from Go Daddy and/or Domains By Proxy
16 in response to the subpoenas, for each of the corresponding Domains.

17 Dated: this 9th day of December, 2015.

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